

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
FCC Proceeding on) MB Docket No. 04-233
Broadcast Localism)

To: Secretary, Federal Communication Commission

COMMENTS OF CHEYENNE MOUNTAIN PUBLIC BROADCAST HOUSE, INC.

Cheyenne Mountain Public Broadcast House, Inc. (“CMPBH”), by its counsel,
respectfully submits its Comments in the above-referenced proceeding and states as follows:

CMPBH is the proud licensee of non-commercial, educational FM station KCME,
Manitou Springs, Colorado. For nearly 30 years KCME has served its community and nearby
Colorado Springs with a unique blend of programming that includes a wide range of public
service programming. CMPBH is 100% listener support. In its entire 30 years of operation,
CMPBH has not taken a dime of Corporation for Public Broadcasting (“CPB”) funding or any
other federal or state funding, including tax money. The station has remained a staunchly
independent voice in and of its community. KCME’s listeners enjoy the station so much that
they continue to support the station out of their own pockets year after year through direct
donations. Some of what the FCC is proposing in this proceeding has the very real potential of
undermining everything CMPBH has worked to establish during the past three decades.

**It is Not Necessary to Require Stations to Locate Main Studios
Within their Community of License**

To encourage the production of more locally originated programming by radio stations,

the Commission is considering reinstating the part of the old main studio rule (dropped in 1987) that would require each station to locate its main studio within the station's community of license. CMPBH does not believe that implementing such a requirement will necessarily produce the desired result. In many cases, it will be smaller station operators that will be the most adversely affected by the rule change. Smaller operators (like CMBPH) already focus more heavily on their listening audience than larger nationwide conglomerates who operate ten or twelve stations in a "cluster" from a single studio, or maybe two studios located in the major metropolitan market they serve to afford a maximum economy of scale. CMBPH would be devastated if this rule was reinstated.

KCME is licensed to Manitou Springs, Colorado, but has its main studio in Colorado Springs, Colorado. The community of Colorado Springs borders the community Manitou Springs. The main studio site from which KCME operates is located approximately 4 miles from the Manitou Springs border. CMPBH moved out of the Manitou Springs city limits to its present location in 1993 because of technical issues encountered in getting the signal from that studio to the tower on Cheyenne Mountain and because the facility in Manitou Springs was deteriorating. From its studio location in Colorado Springs, KCME has a straight shot by STL to the tower on Cheyenne Mountain. From Manitou Springs, which is more in a valley, there were terrain shielding issues that prevented a straight shot to the transmitter site. Several smaller "hops" were required to get the KCME signal from the studio to the transmitter.

Under the Commission's proposal, it is simply assumed that because KCME's studio is in Colorado Springs, it is not or cannot adequately serve its community of license, Manitou Springs. Nothing could be farther from the truth. CMPBH treats its entire listening area as one

large “community.” Specifically with respect to Manitou Springs, it provides coverage and information about a litany of local events special to the residents of Manitou Springs. In addition, CMPBH applied for and obtained a license to operate an on-channel booster, licensed to Manitou Springs to improve the quality of the signal in its community of license. Reception of KCME’s broadcast signal in Manitou Springs was impaired by the same terrain shielding that inhibited the transmission of the broadcast signal from the Manitou Springs studio to the Cheyenne Mountain transmitter site.

In sum, requiring CMPBH or any other similar station to move its main studio location to its community of license would not improve the level of public service or local programming it provides. There are cases where requiring operators running multiple stations from a single main studio to instead create a main studio in each and every community of license *might* result in better public service, but even then, unless a licensee is committed to providing public affairs programming in each of its communities of license, even this rule change will not force that result.

The FCC Should Continue to Allow Remote Operations of Stations

Eliminating the ability of a station to be operated remotely will cause a potentially insurmountable financial burden and a hiring nightmare for KCME and similarly situated stations. Staffing the station 24 hours per day, seven days per week will require the hiring of additional personnel who will have to be paid to “babysit” the station. The money to pay the additional personnel will have to come from funds now used to provide the programming that our listeners enjoy including locally produced public affairs programming. Rather than

promoting more local programming as the FCC suggests it would, this requirement will actually take away funds that could better be utilized to produce more local programming. CMPBH's initial calculations show that the station might be better off shutting down its operations during some of the overnight hours rather than hiring appropriate staff to meet this new requirement.

Moreover, there is a security issue. This new FCC rule would force station licensees to hire personnel to sit through "graveyard shifts" at studios that are not always located in well-lit, well populated areas, especially so between the hours of midnight and 6 am or 7 am. The personal safety of those individuals will always be a question for station management to consider. Also, such a position is "entry level" so station licensees would be entrusting the continued operation of the station to personnel with very little experience in broadcast operations.

Rather than encouraging more local programming and greater community service, CMPHB believes that eliminating the ability of a station to operate remotely during some part of the day will actually reduce the amount of local programming a station broadcasts. The cost of additional personnel to staff the station will cause licensees to redirect funds away from programming budgets. The increased personnel expense could result in stations cutting back on hours they are on the air because the stations cannot afford 24 hour per day staffing.

More Record Keeping Is Not the Way to Improve the Quality or Quantity of Local Programming

KCME has operated for 30 years through the generous and gracious support of its listeners. CMPBH does not accept federal money from CPB or tax money or any other funds except funds contributed directly to the station from its listeners and supporters. If the station

was not “serving the public interest” then it is highly doubtful that the public would have supported the station for nearly 30 consecutive years. CMPBH is very proud of that heritage, and is confident that there are many other locally operated stations that provide the same type of exemplary public service. The added “bookkeeping” that the proposed FCC Form 355 will require is not necessary for all stations. Again, because small stations are run on a lean budget, CMPBH would be forced to allot resources to recordkeeping and would have to take away resources from other more important places.

CMPBH submits that the proposed recordkeeping requirements concerning programming and maintaining certain percentages of certain types of programming comes perilously close to putting the FCC in the business of unlawfully regulating program content. Listeners decide what they want to listen to by either listening to a station or not listening to a station. If listeners do not listen, then a station will fail. The situation is particularly acute at KCME because if listeners did not listen or became dissatisfied with the program offerings, not only would they stop listening, they would also stop monetarily supporting KCME, and that would be the end of the station. Any attempt by the FCC to regulate programming abrogates a licensee’s freedom of speech and will not guarantee the FCC’s intended result. One size does not fit all in the programming business. It is the listening audience, especially for smaller operators, that decides what programming it wants and needs to broadcast over its radio stations in order to survive. In radio’s largest markets, it might be different because so many stations in a market are owned by one or two large nationwide operators, but local operators in small markets not only hear feedback from their constituents, but must respond properly to stay alive.

Conclusion

CMPBH does not support the Commission proposal to require licensees to locate main studios within a station's community of license. It has the potential to be very costly and there is no evidence to show that implementing the rule would achieve the desired result. CMPBH opposes the elimination of the rule that allows for remote operation of stations for the same reasons. It will be a very costly burden for many small operators and there is no evidence to show that staffing a station in the overnight hours would actually provide more or better local programming. Finally, CMPBH does not believe the implementation of further recordkeeping with the proposed FCC Form 355 is necessary. Perhaps for stations where the FCC receives specific complaints from local listeners about the amount of local programming or situations where a station does not maintain an adequate issues/program list, the Form 355 could be used as a tool to monitor a station's future compliance, much like the Enforcement Bureau does now by increasing certain reporting requirements for stations that do not comply with the rules. But to apply the Form 355 burden on all stations comes too close to regulating program content and abrogating the operator's first amendment rights.

Respectfully submitted,
CHEYENNE MOUNTAIN PUBLIC
BROADCAST HOUSE, INC.

By: _____
Scott C. Cinnamon
Law Offices of Scott C. Cinnamon, PLLC
1250 Connecticut Ave., NW, Suite 200, # 144
Washington, D.C. 20036
(202) 216-5798

Its Counsel

April 28, 2008